

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

ROBERT EARL WINDSOR, M.D.

**Physician's and Surgeon's
Certificate No. C55007**

Respondent

Case No. 8002016024528

DECISION

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on March 22, 2017.

IT IS SO ORDERED March 15, 2017.

MEDICAL BOARD OF CALIFORNIA

By: 
Kimberly Kirchmeyer
Executive Director

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
4 State Bar No. 219400
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7 *Attorneys for Complainant*

8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 800-2016-024528

12 **ROBERT EARL WINDSOR, M.D.**
2550 Windy Hill Road, Suite 215
13 Marietta, GA 30067

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Physician's and Surgeon's Certificate No.**
C55007

15
16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
21 of California (Board). She brought this action solely in her official capacity and is represented in
22 this matter by Xavier Becerra, Attorney General of the State of California, by Emily L. Brinkman,
23 Deputy Attorney General.

24 2. Robert Earl Windsor, M.D. (Respondent) enters into this Stipulated Surrender of
25 License in consultation with his Georgia legal counsel, Jerome J. Froelich, whose address is
26 McKenney & Froelich, 1360 Peachtree Street, One Midtown Plaza, Suite 010, Atlanta, GA
27 30309.
28

1 3. On or about December 7, 2011, the Board issued Physician's and Surgeon's
2 Certificate No. C55007 to Robert Earl Windsor, M.D. (Respondent). The Physician's and
3 Surgeon's Certificate expired on August 31, 2015, and has not been renewed.

4 JURISDICTION

5 4. Accusation No. 800-2016-024528 was filed before the (Board), and is currently
6 pending against Respondent. The Accusation and all other statutorily required documents were
7 properly served on Respondent on October 28, 2016. Respondent timely filed his Notice of
8 Defense contesting the Accusation. A copy of Accusation No. 800-2016-024528 is attached as
9 Exhibit A and incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2016-024528. Respondent also has carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Surrender of License
14 and Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 800-2016-024528, agrees that cause exists for discipline and hereby surrenders his
26 Physician's and Surgeon's Certificate No. C55007 for the Board's formal acceptance.

27 \\

28 \\

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Physician's and Surgeon's Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C55007, issued to Respondent Robert Earl Windsor, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

1 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
2 issued, his wall certificate on or before the effective date of the Decision and Order.

3 4. If Respondent ever files an application for licensure or a petition for reinstatement in
4 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
5 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
6 effect at the time the petition is filed, and all of the charges and allegations contained in
7 Accusation No. 800-2016-024528 shall be deemed to be true, correct and admitted by Respondent
8 when the Board determines whether to grant or deny the petition.

9 **ACCEPTANCE**

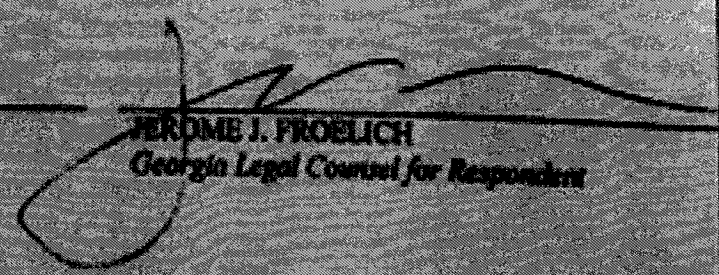
10 I have carefully read the above Stipulated Surrender of License. I enter into it freely and
11 voluntarily and with full knowledge of its force and effect do hereby surrender my Physician's
12 and Surgeon's Certificate Number C55007 to the Medical Board of California, for its formal
13 acceptance. By signing this stipulation to surrender my license, I recognize that upon its formal
14 acceptance by the Board, I will lose all rights and privileges to practice as a physician and
15 surgeon in the State of California and I also will cause to be delivered to the Board my license
16 and wallet certificate in my possession before the effective date of the decision.

17
18 DATED: 2/24/2017


19 ROBERT EARL WINDSOR, M.D.
Respondent

20 I have read and fully discussed with Respondent Robert Earl Windsor, M.D. the terms and
21 conditions and other matters contained in the above Stipulated Surrender of License. I approve
22 its form and content.

23
24
25 DATED: 2/24/2017


26 JEROME J. FROELICH
27 Georgia Legal Counsel for Respondent
28

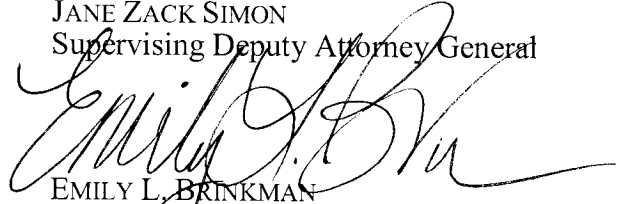
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 2/27/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANE ZACK SIMON
Supervising Deputy Attorney General



EMILY L. BRINKMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2016-024528

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 EMILY L. BRINKMAN
Deputy Attorney General
4 State Bar No. 219400
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO *Oct 28 20 16*
BY *[Signature]* ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2016-024528

12 **Robert Earl Windsor, M.D.**
2550 Windy Hill Road, Suite 215
13 Marietta, GA 30067

A C C U S A T I O N

14 **Physician's and Surgeon's Certificate**
15 **No. C55007,**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On or about December 7, 2011, the Medical Board issued Physician's and Surgeon's
24 Certificate Number C55007 to Robert Earl Windsor, M.D. (Respondent). The Physician's and
25 Surgeon's Certificate expired on August 31, 2015, and has not been renewed and is in Delinquent
26 Status.

27 \\\

28 \\\

1 3. On or about August 29, 2016, the Medical Board suspended Respondent's Physician's
2 Surgeon's Certificate Number C55007 pursuant to Business and Professions Code section 2310,
3 based on the suspension of Respondent's license to practice medicine in Georgia.

4 **JURISDICTION**

5 4. This Accusation is brought before the Board, under the authority of the following
6 laws. All section references are to the Business and Professions Code unless otherwise indicated.

7 5. Section 2227 of the Code provides that a licensee who is found guilty under the
8 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
9 one year, placed on probation and required to pay the costs of probation monitoring, or such other
10 action taken in relation to discipline as the Board deems proper.

11 6. Section 2305 of the Code states:

12 "The revocation, suspension, or other discipline, restriction or limitation imposed by
13 another state upon a license or certificate to practice medicine issued by that state, or the
14 revocation, suspension, or restriction of the authority to practice medicine by any agency of the
15 federal government, that would have been grounds for discipline in California of a licensee under
16 this chapter [Chapter 5, the Medical Practice Act] shall constitute grounds for disciplinary action
17 for unprofessional conduct against the licensee in this state."

18 7. Section 141 of the Code states:

19 "(a) For any licensee holding a license issued by a board under the jurisdiction of the
20 department, a disciplinary action taken by another state, by any agency of the federal government,
21 or by another country for any act substantially related to the practice regulated by the California
22 license, may be a ground for disciplinary action by the respective state licensing board. A
23 certified copy of the record of the disciplinary action taken against the licensee by another state,
24 an agency of the federal government, or another country shall be conclusive evidence of the
25 events related therein.

26 "(b) Nothing in this section shall preclude a board from applying a specific statutory
27 provision in the licensing act administered by that board that provides for discipline based upon a
28 disciplinary action taken against the licensee by another state, an agency of the federal

1 government, or another country."

2 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
3 revoke a license on the ground that the licensee has been convicted of a crime substantially related
4 to the qualifications, functions, or duties of the business or profession for which the license was
5 issued.

6 9. Section 2234 of the Code, states in relevant part:

7 "The board shall take action against any licensee who is charged with unprofessional
8 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
9 limited to, the following:

10 "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
11 violation of, or conspiring to violate any provision of this chapter.

12 "(e) The commission of any act involving dishonesty or corruption which is substantially
13 related to the qualifications, functions, or duties of a physician and surgeon.

14 "(f) Any action or conduct which would have warranted the denial of a certificate."

15 8. Section 2236 of the Code states, in relevant part:

16 "(a) The conviction of any offense substantially related to the qualifications, functions, or
17 duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this
18 chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive
19 evidence only of the fact that the conviction occurred.

20 "(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
21 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
22 shall be conclusive evidence of the fact that the conviction occurred."

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Discipline, Restriction, or Limitation Imposed by Another State)**

25 10. On June 9, 2016, the Georgia Composite Medical Board (Georgia Board) issued an
26 Interim Public Consent Order (Interim Order) suspending Respondent's ability to practice
27 medicine in Georgia. The Interim Order followed Respondent's guilty plea to criminal charges in
28

1 the United States District Court for false billing charges for surgical monitoring performed by a
2 medical assistant. Copies of the Georgia Board's Interim Order are attached as Exhibit A.

3 11. Respondent's conduct and the action of the Georgia Board as set forth in paragraph
4 10, above, and within the actual Georgia Board documents attached as Exhibit A, constituted
5 unprofessional conduct within the meaning and section 2305 and conduct subject to discipline
6 within the meaning of section 141(a).

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Criminal Conviction/Unprofessional Conduct)**

9 12. Respondent Robert Earl Windsor, M.D. is subject to disciplinary action under
10 sections 490, and/or 2234, and/or 2234(e), and/or 2236(a) in that Respondent has engaged in
11 unprofessional conduct and was convicted of a crime. The circumstances are as follows:

12 13. On or about February 16, 2016, the United States Attorney General's Office filed a
13 Criminal Information against Respondent in the United States District Court for the Northern
14 District of Georgia, Atlanta Division, *United States of America v. Robert E. Windsor*, Case No.
15 1:16-CR-068. Respondent was charged with one felony count of health care fraud under 18
16 U.S.C. § 1347 for "knowingly devised and intended to devise a scheme and artifice to defraud and
17 to obtain money and property by means of materially false and fraudulent pretense,
18 representations, and promises, and by the omission of material facts, that is by claiming to have
19 performed health care services, well knowing and having reason to know that said materially false
20 pretenses, representations, and promises were and would be false and fraudulent when made and
21 that said omissions were and would be material."

22 14. According to the Criminal Information, Respondent owned a surgical monitoring
23 company that entered into a contract with a Maryland Corporation to provide surgical monitoring
24 services. Respondent was required to provide real-time, on-line communication and patient
25 monitoring services including preparing a Final Monitoring Report detailing the monitoring he
26 performed during the surgery.

27 15. Beginning in January 2010, Respondent employed a medical assistant who began
28 providing the surgical monitoring services using Respondent's log-in name and password to make

1 it appear that Respondent was personally monitoring the surgeries. The medical assistant was not
2 qualified to provide surgical monitoring services. As a result, Respondent "fraudulently obtained
3 at least \$1.1 million" from January 2010 through July 2013 for the false representations that he
4 performed surgical monitoring services that he did not perform.

5 16. On or about March 25, 2016, Respondent pled guilty to the felony charge of health
6 care fraud in the Criminal Indictment. As part of the plea agreement, the United States Attorney's
7 Office agreed not to bring additional criminal charges against the defendant in Kentucky, as well
8 as additional criminal charges for submitting false claims for health benefits for unnecessary
9 medical tests and procedures, drug screens, and in prescribing "medically unnecessary pain
10 medication."

11 17. Sentencing is scheduled for October 24, 2016.

12 **PRAYER**

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Medical Board of California issue a decision:


15 1. Revoking or suspending Physician's and Surgeon's Certificate Number C55007,
16 issued to Robert Earl Windsor, M.D.;

17 2. Revoking, suspending or denying approval of Robert Earl Windsor, M.D.'s authority
18 to supervise physician assistants, pursuant to section 3527 of the Code;

19 3. Ordering Robert Earl Windsor, M.D., if placed on probation, to pay the Board the
20 costs of probation monitoring; and

21 4. Taking such other and further action as deemed necessary and proper.

22
23 DATED: October 28, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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25
26
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EXHIBIT A

BEFORE THE GEORGIA COMPOSITE MEDICAL BOARD

	STATE OF GEORGIA	GEORGIA COMPOSITE MEDICAL BOARD
IN THE MATTER OF:	*	JUN 09 2016
	*	
ROBERT E. WINDSOR, M.D.,	*	DOCKET NUMBER:
License No. 31857,	*	<u>20112 0051</u>
	*	
Respondent.	*	

INTERIM PUBLIC CONSENT ORDER

By agreement of the Georgia Composite Medical Board ("Board") and Robert E. Windsor, M.D. ("Respondent"), the following interim disposition of this matter is entered pursuant to the provisions of O.C.G.A. § 50-13-13(a)(4), as amended.

FINDINGS OF FACT

1.

Respondent is licensed to practice medicine in the State of Georgia and was so licensed at all times relevant to the matters stated herein.

2.

The Board has received information that on or about March 25, 2016, in the United States District Court for the Northern District of Georgia, Respondent plead guilty to false billing charges for surgical monitoring performed by a medical assistant.

3.

For purposes of entering into this Interim Consent Order, Respondent does not contest the findings of fact above. Respondent admits to pleading guilty to felony criminal charges and has waived his right to contest such charges. Respondent agrees the Board

may enter an interim order based on the findings without the necessity of receiving evidence in support thereof or holding a hearing.

CONCLUSIONS OF LAW

In order to resolve the issues identified herein, Respondent herein waives formal conclusions of law with respect to the above-styled matter and does not contest the Board's authority to enter the following order.

ORDER

The Board, having considered all the facts and circumstances of this case, hereby orders, and Respondent hereby agrees, as follows:

1.

Respondent agrees that Respondent's license to practice medicine in the State of Georgia shall be suspended until resolution of the criminal charges pending against Respondent. During the period of suspension, Respondent shall not practice medicine in the State of Georgia. If Respondent practices medicine in the State of Georgia during the suspension then Respondent's license shall be subject to revocation, upon substantiation thereof. The Respondent acknowledges and agrees that the Board may show that Respondent's license is suspended on its data bank and may respond to public inquiries that Respondent's license is suspended.

2.

During the period of suspension, Respondent shall continue to obtain continuing education as required by law and the Rules and Regulations of the Board and shall continue

to pay the license renewal fee by and before each expiration date as established by the Board. Failure to obtain the continuing education and pay the license renewal fee shall be grounds for the administrative revocation of Respondent's license without a hearing as provided by O.C.G.A. §43-1-19(1), with reinstatement within the discretion of the Board.

Respondent acknowledges that when considering the reinstatement of an administratively revoked license, the Board has the authority to review and investigative file relating to the Respondent.

3.

Respondent shall notify the Board of the resolution of the criminal charges against Respondent within twenty (20) of such resolution. Upon notification there has been a resolution to the criminal charges, the Board is authorized to initiate disciplinary proceedings or otherwise resolve this matter. The Board reserves the right to add additional charges if and when disciplinary proceedings are initiated.

4.

This Interim Consent Order shall be considered a public record of the Board and shall be disseminated as such.

5.

Nothing in this Interim Consent Order precludes the Respondent from entering into a final settlement of the above-referenced matter by the surrender of his license or a final consent order between the parties.

6.

Approval of this Interim Consent Order by the Board shall in no way be construed as condoning Respondent's alleged conduct and shall not be construed as a waiver of any

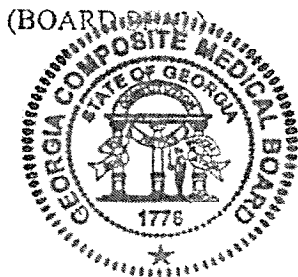
of the lawful rights possessed by the Board or Respondent to finally adjudicate in this matter.

7.

Respondent acknowledges that he has read this Interim Consent Order and understands its contents. Respondent understands that he has the right to a hearing in his matter and freely, knowingly, and voluntarily waives that right at this time by entering into this Interim Consent Order. Respondent understands and agrees that the Board shall have the authority to review the investigative file and all relevant evidence in considering this Interim Consent Order. Respondent further understands that this Interim Consent Order will not become effective until approved and docketed by the Board. Respondent understands that this Interim Consent Order, once approved and docketed, shall constitute a public record, evidencing interim action by the Board that may be disseminated as such. However, if this Interim Consent Order is not approved, it shall not constitute an admission against interest in this proceeding, or prejudice the right of the Board to finally adjudicate this matter. Respondent hereby consents to the terms and sanctions contained herein.

Approved this 9TH day of JUNE, 2016.

GEORGIA COMPOSITE MEDICAL BOARD



BY: Alice House

ALICE HOUSE, M.D.

Chairperson

ATTEST: Robert Jeffery

ROBERT JEFFERY
Executive Director